

Patent
Attorney's Docket No. 033364-280

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	MAILSTOP: REISSUE
Patrick AHL et al.)	
Application No.: 09/398,934 (Reissue application of U.S. Patent No. 5,662,930))	Group Art Unit: 1615
)	Examiner: Gollamudi S. Kishore
Filed: September 1, 1999)	Confirmation No.:1677
For: REDUCTION OF LIPOSOME- INDUCED ADVERSE PHYSIOLOGICAL REACTIONS)	

REISSUE APPLICATION DECLARATION BY THE ASSIGNEE
PURSUANT TO 37 C.F.R. § 1.172

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Jean Duvall, hereby declare that:

My mailing address, citizenship, and position title are stated below next to my name. I am authorized to act on behalf of the current assignee, Elan Pharmaceuticals, Inc. The entire title to the patent identified below is vested in Elan Pharmaceuticals, Inc. as evidenced by the chain of title as described in the Statement Under 37 C.F.R. §3.73(b) submitted herewith.

The names, last-known addresses and citizenships of Patentees are as follows:

Patrick L. Ahl, 2E Brookline Court, Princeton, NJ 08536, US

Suresh Bhatia, B-165 Sarita Vihar, Mathura Road, New Delhi, 110044, IN

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Sharna R. Minchey, 1693 Camp Hill Road, Lafayette, TN 37083, US

Andrew S. Janoff, 560 Countess Drive, Yardley, PA 19067, US

I believe the above patentees to be the original, joint inventors of the subject matter which is described and claimed in the patent, for which a reissue patent is sought on the invention entitled REDUCTION OF LIPOSOME-INDUCED ADVERSE PHYSIOLOGICAL REACTIONS, the specification of which was filed on September 1, 1999, as Reissue Application Number 09/398,934 and was amended on September 1, 1999; November 2, 2000; October 26, 2001, by way of a Request for Continued Examination, which requested entry of the amendment filed on August 27, 2001; September 23, 2002; and in the Reply & Amendment submitted herewith.

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. At least one error upon which reissue is based is described as follows. Original Claim 14 may be considered indefinite as improperly depending from Claim 12, rather than Claim 13. Accordingly, the recitation of "functional group" in Claim 14 lacks antecedent basis. This error was corrected in the Amendment filed September 23, 2002. Additionally, Claim 16 may be considered indefinite as containing an improper Markush group. A rejection of Claim 16 under 35 U.S.C. § 112, second

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paragraph, was made in the Official Action issued on April 25, 2002, in the present reissue application. Claim 16 was amended and new Claims 54-57 were added in the Amendment filed September 23, 2002, to correct this error.

All errors corrected in this reissue application arose without any deceptive intention on the part of the Applicants. Moreover, none of the above errors were brought to the attention of Applicants during prosecution of the original patent.

This Reissue Declaration by Assignee Pursuant to 37 C.F.R. § 1.172 is proper because the present reissue application no longer seeks to broaden the scope of the original patent.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Respectfully submitted,

Date: Sept. 26, 2003

By: Jean Duvall

Jean Duvall
Executive Vice President and General Counsel
Eli Lilly Pharmaceuticals, Inc.
800 Gateway Blvd.
South San Francisco, CA 94080
U.S. citizen

(05/03)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	MAILSTOP: REISSUE
Patrick AHL et al.)	
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Application No.: 09/398,934 (Reissue)	
application of U.S. Patent No. 5,662,930))	Examiner: Gollamudi S. Kishore
)	
Filed: September 1, 1999)	Confirmation No.:1677
)	
For: REDUCTION OF LIPOSOME-)	
INDUCED ADVERSE)	
PHYSIOLOGICAL REACTIONS)	

CONSENT OF ASSIGNEE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The undersigned states that she is empowered to execute this Consent on behalf of Elan Pharmaceuticals, Inc., assignee of the entire interest in U.S. Patent No. 5,662,930, and the above-identified reissue application. The entire title to the patent and subsequent reissue application is vested in Elan Pharmaceuticals, Inc. as evidenced by the chain of title as described in the Statement Under 37 C.F.R. §3.73(b) submitted herewith.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that

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Page 2

such willful false statements may jeopardize the validity of the application, any patent
issuing thereon, or any patent to which this Consent is directed.

Respectfully submitted,

Date: Sep. 26, 2003

By: 

Jean Durvall
Executive Vice President and General Counsel
Eli Lilly Pharmaceuticals, Inc.
800 Gateway Blvd.
South San Francisco, CA 94080
U.S. citizen

(05/03)

PTO/SBG (4-92)
Approved for rec through 09/30/2003. OMB 0651-0034
Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Attorney's Docket No. 033364-280

STATEMENT UNDER 37 C.F.R. § 3.73(b)

Applicant/Patent Owner: Elan Pharmaceuticals, Inc.

Application No./Patent No.: 09/398,534

Filed/Issue Date: September 1, 1999

Entitled: REDUCTIONS OF LIPOSOME-INDUCED ADVERSE PHYSIOLOGICAL REACTIONS

Elan Pharmaceuticals, Inc.

(Name of Assignee)

a Corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of an undivided part interest

in the patent application/patent identified above by virtue of either:

- A. ☐ An assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

- B. ☒ A chain of title from the inventor(s), of the patent application identified above, to the current assignee as shown below:

1. From: All inventors To: The Liposome Company, Inc.
The document was recorded in the Patent and Trademark Office at
Reel 7097, Frame 0350, or for which a copy thereof is attached.
2. From: The Liposome Company, Inc. To: Elan Pharmaceuticals, Inc.
The document was recorded in the Patent and Trademark Office at
Reel 12058, Frame 601, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☐ Copies of assignments or other documents in the chain of title are attached.
[NOTE:] A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the PTO. See MPEP 302-302.8)

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

Date: Sept. 26, 2003

Jean Duval
Signature
Jean Duval
Typed or printed name
Executive Vice President and General Counsel
Title

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Attorney's Docket No. 033364-280

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Patrick AHL et al.
Application No.: 09/398,934
Filed: September 1, 1999

For: REDUCTION OF LIPOSOME-
INDUCED ADVERSE
PHYSIOLOGICAL REACTIONS

MAILSTOP: REISSUE

Group Art Unit: 1615

Examiner: Gollamudi Kishore, Ph.D.

Confirmation No.: 1677

PETITION FOR EXTENSION OF TIME

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following extension of time is requested to respond to the *Ex parte* Quayle Office Action
mailed February 26, 2003, but received May 1, 2003 at which time period was reset :

	<u>F E E</u>	
<input type="checkbox"/> one month to _____	<input type="checkbox"/> \$55.00 (2251)	<input type="checkbox"/> \$110.00 (1251)
<input type="checkbox"/> two months to _____	<input type="checkbox"/> \$205.00 (2252)	<input type="checkbox"/> \$410.00 (1252)
<input checked="" type="checkbox"/> three months to <u>October 1, 2003</u>	<input type="checkbox"/> \$465.00 (2253)	<input checked="" type="checkbox"/> \$930.00 (1253)
<input type="checkbox"/> four months to _____	<input type="checkbox"/> \$725.00 (2254)	<input type="checkbox"/> \$1,450.00 (1254)
<input type="checkbox"/> five months to _____	<input type="checkbox"/> \$985.00 (2255)	<input type="checkbox"/> \$1,970.00 (1255)

☐ The shortened statutory period has been reset by an Advisory Action dated _____.

☒ An extension fee in the amount of \$ 930.00 is enclosed.

☐ Charge \$ _____ to Deposit Account No. 02-4800.

The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: September 29, 2003

By:


Jennifer A. Topmiller, Ph.D.
Registration No. 50,435

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((05/03))